

REMARKS

Claims 1-21 are pending in the application.

Claims 1-21 have been rejected.

Claims 1, 2, 9-11, 16-19 and 21 have been amended.

Rejection of Claims Under 35 U.S.C. §112

Claim 1 stands rejected under 35 U.S.C. §112 para. 1 as purportedly failing to comply with the written description requirement. The Office Action suggests that “the specification as originally filed doesn’t have support for ‘the NVT server allows a user to create a last one task.’” Final Office Action, p. 2. Applicants traverse this rejection by amending independent Claim 1, thereby removing the offending claim limitation. Applicants respectfully submit that this claim amendment renders the rejection under 35 U.S.C. §112 para. 1 moot.

Applicants have chosen to amend Claim 1 in order to expedite prosecution. Applicants do not intend this amendment to in any way reflect a concession of the Office Action’s contention that the previously presented claim language (“the NVT server allows a user to create at least one task for the at least one task type by entering parameters into a template for each of the at least one task”) is not disclosed in the Application as originally filed. Applicants submit that the previously presented language finds support at least at p.9, ll.12-27, wherein it is disclosed that the NVT server sends a collection of templates to a client. A client then enters the various parameters into a template to create a task (p.9, l.33 – p.10, l.6). Thus, by providing the templates to the client, the NVT server allows the creation of the task, as previously claimed.

Claim 21 stands rejected under 35 U.S.C. §112 para. 2 as purportedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Final Office Action states “it is not clear what is meant by ‘the NVT server allows a user NVT server produces instructions using the parameters.’” Final Office Action, p. 3. Applicants have chosen to traverse this rejection by amending dependent Claim 21 to read as follows: “the NVT server is configured to produce instructions using the parameters....” Applicants respectfully submit that the amendment deletes the offending language stated in the Office Action and renders the rejection under 35 U.S.C. §112 para. 2 moot.

For at least the above reasons, Applicants respectfully submit that Claims 1 and 21 are in condition for allowance and respectfully requests Examiner’s reconsideration and withdrawal of the stated rejections.

Rejection of Claims Under 35 U.S.C. §102

Claims 1, 2, 4, 9-11, and 17-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,854,889 issued to Liese et al. (“Liese”). Applicants respectfully traverse this rejection by amending Claims 1, 2, 9-11 and 17-19. Applicants provide these amendments without conceding that Liese is prior art to any invention now or previously claimed in the present Application. Applicants further make these amendments without prejudice to pursuing the previous claim language in another application.

Claim 1: Independent Claim 1 includes the following claim limitations:

- the NVT server is configured to translate parameters entered by a user to instructions executable by the at least one probe network device,
- the NVT server is configured to transmit the instructions to the at least one probe network device hosting the task type, and
- the at least one probe network device is configured to execute a process corresponding to the at least one task type in response to the instructions.

Applicants respectfully submit that the amended claim language “configured to translate parameters entered by a user to instructions executable by the at least one probe network device” finds support in the Application as originally filed at least at p. 10, ll. 10-13 (“NVT server 1 (Figure 1)), using control libraries, translates from the parameters in the task (as entered into the task template) to instructions that can be sent to and executed by the task type software resident on the probe network devices.”) (emphasis added).

Applicants respectfully submit that sections of Liese, relied upon by the Office Action in rejecting the claims, do not provide disclosure of an NVT server configured to translate parameters, as claimed. The Office Action cites to Liese 3:29-47 as purportedly providing disclosure of a related claim limitation found in previously submitted Claim 19. *See* Final Office Action, p. 8. Applicants respectfully submit that the cited language of Liese relates to the disclosed “client machine”, which is not suggested by the Office Action as corresponding to the claimed NVT server. *See, e.g.*, Final Office Action, p. 3. (“a user at the network under test communicates to a client machine which test or test cases are to be executed by the custom servers, the test or test cases can be edited before transmission to the execution server 16 which coordinates the execution of test cases by the custom servers”). Rather, the Office action relates Liese’s disclosed execution server

16 to correspond to the claimed NVT server. *See* Final Office Action, p. 3. The Office Action indicates that “Examiner interpreted the transmission from the client to the custom server as being the translating the task to task code for transmission.” Final Office Action, p. 8. Applicants submit that amended Claim 1 requires the translation to be performed by the NVT server itself, which is contrary to the Examiner’s interpretation of the limitation in previously presented Claim 19.

Applicants respectfully submit that Liese’s disclosed execution server is not configured to translate parameters entered by a user to instructions executable by at least one probe network device. Liese discloses that the execution server probes a test request generated by a client machine and routes that test request to an appropriate custom server that actually performs the requested test case. *See* Liese 7:9-12. In performing this task, Liese’s disclosed execution server receives a test case request and a test case header from a client machine. *See* Liese 8:12-27. Liese’s disclosed test case header “conveys generic information about the test case, such as the test case type, comments on the test case, test case identification, when the test case was created, who created the test case, etc.” Liese 7:40-44. The disclosed execution server then provides the test case header and test case information to a custom server. *See* Liese 8:28-30. Liese’s disclosed execution server is further purportedly configured to store test results generated by the custom server. *See* Liese 8:35-39. Liese provides additional details regarding the operation of the disclosed execution server. *See* Liese 10:5-11:21 & Figure 7. The details provide description of receiving a test case from a client and placing it in a process list (Liese 10:25-30), retrieving the test case from the process list (Liese 10:64-66), determination of resources to execute the test case (Liese 11:2-6), and communication of the test case to a custom

server (Liese 11:7-21). These details provide no disclosure of translation of the test case, as claimed, and instead explicitly state that the test case itself is provided to the custom server.

In the Summary of the Invention section, Liese describes these actions of the execution server in the following way:

The execution server is the supervisory server for performing all requested test cases in the lab environment. Thus, the execution server conveys protocol for successful completion of task request(s) to custom servers which ultimately perform the requested test case(s).

Liese 4:19-23. Applicants respectfully submit that the disclosed conveying of protocols does not imply translation of parameters into instructions executable by a probe network device, as claimed, but instead relates to the above-described tasks performed by the execution server in receiving and providing test case headers and test case information to the custom servers.

For at least these reasons, Applicants respectfully submit that independent Claim 1, as amended, and all claims depending therefrom, are not anticipated by Liese and are therefore in condition for allowance. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the rejections as to these claims and a notification of the allowability of same.

Independent Claim 9: Independent Claim 9 has been amended to clarify certain claim limitations, in part, and to traverse, in part, the rejection of this claim under Liese. The amended "providing" limitation clarifies the relationship between the claimed "test network" and the "network under test" that comprises the test network. This claim limitation is supported in the original Application at least at p. 7, l. 5 - p. 8, l. 10, and

Figure 1. In addition, the claim limitation that previously read “specifying at least one task by entering the parameters for the at least one task into a template for the at least one task” has been amended for clarification, as follows: “entering the parameters for a task of the task type into a template.” Support for this amended claim language can be found in the original application at p. 9, ll. 1-5 and p. 9, ll. 23-25.

Applicants have also provided the following amended claim language:

translating the parameters into instructions executable by the probe network device, wherein said translating is performed using the NVT server.

Applicants respectfully submit that for the reasons discussed above, with respect to independent Claim 1, this language is not disclosed by Liese. For at least these reasons, Applicants respectfully submit that independent Claim 9 and all claims depending therefrom are in condition for allowance. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal to the rejections to these claims, and an indication of the allowability of same.

Independent Claim 17: As with independent Claims 1 and 9, limitations of independent Claim 17 have been amended, as follows:

translating the task parameters using the NVT server to form executable instructions that can be transmitted to a probe network device that hosts a task code, wherein the task code executes the executable instructions.

For the reasons discussed above with respect to Claim 1, Applicants respectfully submit that Liese does not disclose translating task parameters using an NVT server to form executable instructions that are transmitted and executed by a probe network device. Applicants therefore respectfully submit that independent Claim 17, as amended, and all

claims depending therefrom are in condition for allowance. Applicants respectfully request Examiner's reconsideration and withdrawal of the rejections as to these claims and an indication of the allowability of same.

Independent Claim 19: Independent Claim 19 has been amended to provide the following claim limitation: "a network verification test apparatus, comprising computer instructions implemented on an NVT server for...translating the task to task code configured to be executed by one or more probe network devices." Applicants respectfully submit that, for the reasons discussed above with respect to Claim 1, Liese does not disclose this limitation. Applicants therefore respectfully submit that independent Claim 19 and all claims depending therefrom are in condition for allowance. Applicants respectfully request Examiner's reconsideration and withdrawal of the rejections as to these claims, and an indication of the allowability of same.

In addition to the amendments discussed above, dependent Claim 2, 10, 11, 16 and 18 have been amended to provide consistent language and antecedent basis agreement with the independent claims from which these claims depend. Applicants further submit that no new matter has been added by these claim amendments.

Rejection of Claims Under 35 U.S.C. §103

Dependent Claims 3, 5-8, 12-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Liese in view of a number of other references. Applicants respectfully traverse this rejection.

In order for a claim to be rendered invalid under 35 U.S.C. §103, the subject matter of the claim as a whole would have to be obvious to a person of ordinary skill in

the art at the time the invention was made. *See* 35 U.S.C. §103(a). This requires: (1) the reference(s) must teach or suggest all of the claim limitations; (2) there must be some teaching, suggestion or motivation to combine references either in the references themselves or in the knowledge of the art; and (3) there must be a reasonable expectation of success. *See* MPEP 2143; MPEP 2143.03; *In re Rouffet*, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998).

For reasons discussed above with regard to the rejections under 35 U.S.C. §102, Liese does not disclose all of the claim limitations of the independent claims from which these dependent claims depend. The Office Action provides no suggestion that any of the cited art suggested to be combined with Liese provides any disclosure that makes up for the above-mentioned deficiencies of Liese. For at least these reasons, Applicants respectfully submit that the cited combinations of references do not render these dependent claims unpatentable.

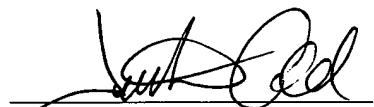
Applicants further incorporate their discussions as to these references provided in response to previous Office Actions that cite to these references.

For at least these reasons, and for those discussed above, Applicants respectfully submit that dependent Claims 3, 5-8 and 12-16 are in condition for allowance. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the rejections as to these claims, and an indication of the allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on August 3, 2006.

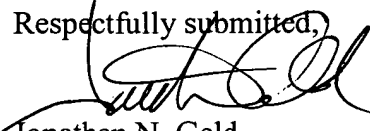


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